

NOTICE OF APPEAL  
TO  
U.S. COURT OF APPEALS, THIRD CIRCUIT

U.S. District Court for the District of Delaware

CIRCUIT COURT  
DOCKET NUMBER: \_\_\_\_\_  
(leave blank)

FULL CAPTION IN DISTRICT COURT AS FOLLOWS:

MONTY C PEPPER

DISTRICT COURT  
DOCKET NUMBER: 05-84-JJF

v.

WARDEN THOMAS CARROLL et.al

DISTRICT COURT  
JUDGE: JOSEPH FARNAN Jr

Notice is hereby given that MONTY PEPPER

(Named Party)

appeals to the United States Court of Appeals for the Third Circuit from ☒ Judgment, ☐ Order,

☐ Other (specify) \_\_\_\_\_

entered in this action on March 22 2006  
(date)

Dated: Apr 1 2006

 Pro Se  
(Counsel for Appellant Signature)

Monty Pepper PRO SE

(Name of Counsel - Typed)

Delaware Correctional Center

(Address)

1181 Paddock Rd

(City, State Zip)

Smyrna DEL 19977

(Telephone Number)

Lisa Barchi

(Counsel for Appellee)

deputy attorney general

(Address)

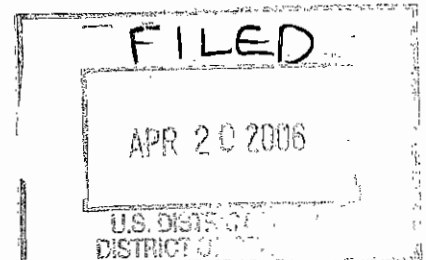
820 N French Street 6th floor

(City, State Zip)

Wilmington Del 19801

(Telephone Number)

302 577-8400



NOTE: USE ADDITIONAL SHEETS if all appellants and/or all counsel for appellees cannot be listed on the Notice of Appeal sheet.

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[ ] Other (specify) \_\_\_\_\_

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302-577-8400

NOTE: USE ADDITIONAL SHEETS if all appellants and/or all counsel for appellees cannot be listed on the Notice of Appeal sheet.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-84-JJF
	:	
WARDEN THOMAS CARROLL, C/O	:	
BAMBI THOMAS, C/O JAMES	:	
GARDELS, and C/O THOMAS	:	
SEACORD,	:	
	:	
Defendants.	:	

ORDER

At Wilmington, the 22nd day of March 2006, for the reasons  
set forth in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

1. Plaintiff's Motion For Extension Of Time To File Answering  
Brief To Defendant's Motion And Opening Brief (D.I. 36) is  
GRANTED.
2. State Defendants' Motion To Dismiss/Summary Judgment  
Pursuant to Rule 12(b)(6) Of The Federal Rules Of Civil  
Procedure (D.I. 33) is GRANTED.
3. Plaintiff's Instant Motion Notice Of Emergency Motion And/Or  
Summary Judgment Or Relief (D.I. 8) is DENIED AS MOOT.
4. Plaintiff's Motion For Temporary Restraining Order Without  
Notice And For Preliminary Injunction (D.I. 12) is DENIED AS  
MOOT.

5. Plaintiff's Petition For Writ Of Mandamus (D.I. 25)  
(docketed as a Motion For Permanent Injunction) is DENIED AS  
MOOT.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-84-JJF
	:	
WARDEN THOMAS CARROLL, C/O	:	
BAMBI THOMAS, C/O JAMES	:	
GARDELS, C/O THOMAS SEACORD,	:	
	:	
Defendants.	:	

ORDER

WHEREAS, after State Defendants filed their Motion To Dismiss/Summary Judgment Pursuant to Rule 12(b)(6) Of The Federal Rules Of Civil Procedure (D.I. 33), Plaintiff filed a Motion To Amend (D.I. 49);

WHEREAS, this is Plaintiff's second motion to amend;

WHEREAS, a party may amend its pleading once as a matter of course; any subsequent amendment may only be had by leave of court or by consent of the adverse party, Fed. R. Civ. P. 15(a);


WHEREAS, Plaintiff's amendment would add an entirely new claim to Plaintiff's Complaint;

WHEREAS, the Court granted State Defendants' Motion To Dismiss/Summary Judgment Pursuant to Rule 12(b)(6) Of The Federal Rules Of Civil Procedure (D.I. 33);

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff's Motion To Amend (D.I. 49) is DENIED.
2. The case, 05-84-JJF, is CLOSED.

March 22, 2006

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER, :  
 :  
 Plaintiff, :  
 :  
 v. : Civil Action No. 05-84-JJF  
 :  
 WARDEN THOMAS CARROLL, :  
 et al., :  
 :  
 Defendants. :

SUPPLEMENTAL SERVICE ORDER

WHEREAS, Plaintiff named as a defendant James Cordel [sic], but service was returned unexecuted as "unknown to DCC" (D.I. 32);

WHEREAS, Deputy Attorney General Lisa Barchi advised the Court "that the defendant listed as James Cordell is really James Gardels" (D.I. 28);

WHEREAS, Deputy Attorney General Lisa Barchi has filed pleadings on behalf of James Gardels (D.I. 33, 37);

WHEREAS, Plaintiff has submitted to the Court a new "U.S. Marshal-285" form for service upon James Gardels (D.I. 42);

NOW THEREFORE, IT IS HEREBY ORDERED this 27 day of February, 2006 that:

1. The Clerk of the Court shall cause a copy of this order to be mailed to Plaintiff.

2. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), Plaintiff has provided the Court with an **original** "U.S. Marshal-285" form for James Gardels and one copy of the complaint (D.I. 2), the amended complaint (D.I.7), and the second amended

**complaint (D.I. 16) for service upon James Gardels.**

3. The United States Marshal shall forthwith serve a copy of the complaint and the amended complaints, this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon the James Gardels as identified in the 285 form.

4. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from James Gardels, the United States Marshal shall personally serve said defendant pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement



of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

7. **Note: \*\*\*** When an amended complaint is filed prior to service, the court will **VACATE** all previous service orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). **\*\*\***

8. **Note: \*\*\*** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. **\*\*\***

  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-84-JJF
	:	
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BAMBI THOMAS, C/O JAMES	:	
GARDELS, and C/O THOMAS	:	
SEACORD,	:	
	:	
Defendants.	:	

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Procedure (D.I. 33) is GRANTED.
3. Plaintiff's Instant Motion Notice Of Emergency Motion And/Or  
Summary Judgment Or Relief (D.I. 8) is DENIED AS MOOT.
4. Plaintiff's Motion For Temporary Restraining Order Without  
Notice And For Preliminary Injunction (D.I. 12) is DENIED AS  
MOOT.

5. Plaintiff's Petition For Writ Of Mandamus (D.I. 25)  
(docketed as a Motion For Permanent Injunction) is DENIED AS  
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FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER,	:	
	:	
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	:	
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GARDELS, and C/O THOMAS	:	
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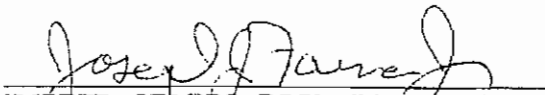
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 Plaintiff, :  
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 v. : Civil Action No. 05-84-JJF  
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 et al., :  
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UNITED STATES DISTRICT JUDGE

1/M M Pepper  
SBI# 0156920 UNIT Dwest

DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977



Office of The Clerk  
United States District Court  
844 N King Street Box 18  
Wilmington Del  
19801-3570

U.S.N.S.  
X-RAY

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